

FINAL

DEPARTMENT OF PUBLIC ENTERPRISES

**MANUAL IN TERMS OF SECTION 14 OF THE PROMOTION
OF ACCESS TO INFORMATION ACT 2 OF 2000, AS
AMENDED**

FOREWORD

The Department of Public Enterprises is a Government department, mandated with the task of ensuring the alignment of State-Owned Companies business strategies with sector department policies and regulatory authorities, whilst ensuring that State-Owned Companies are sustainable businesses that provide economic benefit for the country. As a result, the Department of Public Enterprises plays a pivotal role in the country's economy. Thus, it is important for the Department of Public Enterprises to comply with legislation, such as the Promotion of Access to Information Act, 2000 (Act 2 of 2000), as amended.

The Government enacted the Promotion of Access to Information Act, 2000 (Act 2 of 2000 as amended), to move from a culture of secrecy and bureaucracy to one of transparency and accountability. The Promotion of Access to Information Act 2 of 2000 is a piece of legislation, which affects public bodies, of which the Department of Public Enterprises is one. It is for this reason that the Department of Public Enterprises has compiled this Manual, to promote this culture of transparency and accountability.

It is, with great pleasure that we present this manual, as required by section 14 of the Promotion of Access to Information Act, 2000 (Act 2 of 2000), in order to assist requesters seeking information from the Department of Public Enterprises.

The right of access to information is a constitutional one and this Manual, will assist the Department of Public Enterprises to comply with its constitutional obligations, as stated in the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996 as amended), which is the supreme law of our country.

We hope that this manual will be of assistance to you.

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1 **INTRODUCTION**

The Department of Public Enterprises (“DPE”) is a National Government Department, charged with ensuring the alignment of State-Owned Companies (“SOC”) business strategies with sector department’s policies and regulatory authorities, whilst ensuring that SOC are sustainable businesses that provide economic benefit for the country, as stated in the foreword.

In 1994, the Office of Public Enterprises was established to champion and direct the restructuring of SOC to ensure optimum economic and development impact. Towards this initiative, the DPE developed a policy to accelerate the restructuring of SOC. However, the mandate of the DPE has since 2005 evolved from restructuring of SOC to focus on strengthening and exercising shareholder oversight over SOC.

In executing its mandate, the DPE handles a substantial amount of information, which may be required for the exercise of or the protection of any right of persons.

The right of access to information is a constitutionally entrenched right to any information held by any public body that is required for the exercise or protection of any rights. The Promotion of Access to Information Act, 2000 (Act 2 of 2000 as amended) (“PAIA”) came into operation as a result of section 32 of the Constitution of the Republic of South Africa Act, 1996 (Act 108 of 1996) (“the Constitution”), which required that national legislation be enacted to give effect to the right of access to information. PAIA provides a statutory right of access on request to any record held by both public and private bodies, subject to the grounds of refusal permitted in terms of the PAIA.

PAIA sets out the process to be followed when requesting access to records, the ground upon which such access may be refused and the appeal procedure to be followed when a requester has been refused access to a record in full or part.

It is in terms of PAIA that this Manual is drafted, to give effect to the constitutional right of access to information.

2 **PURPOSE AND OBJECTIVES OF THE MANUAL**

The purpose of this Manual is to give effect to PAIA, which requires public bodies such as the DPE to compile a Manual containing the following:

- description of the DPE’s structure and functions;

- ❑ a description of the guide required by section 10 of the PAIA and how to obtain access to it;
- ❑ sufficient detail to facilitate a request for access to a record of the DPE;
- ❑ the latest notice in terms of section 15(2);
- ❑ a description of the services available to members of the public from the DPE and how to gain access to those services;
- ❑ a description of any arrangement or provision for a person by consultation, making representations or otherwise to participating in or influencing the formulation of policy or the exercise of powers or performance of duties by the body;
- ❑ a description of all remedies available in respect of an act or a failure to act by the body; and
- ❑ Such other information as may be prescribed.

This Manual seeks to provide requesters with information on the functions, the structure, the type of information that is in existence and the procedure to be followed in making requests for access to such information to enable the requesters to identify the required information and to determine if that information is in the DPE's control. The forms to be completed by requesters and the fees payable for a request for access to information will also be provided in this Manual.

This Manual is intended to promote a culture of transparency both within DPE, its SOC and to the general public.

3 **OVERVIEW OF THE DPE FUNCTIONS**

3.1 **Vision**

The DPE's vision is to:

To create an enabling environment in which SOCs add real economic value by focussing on operational excellence, commercial viability and fiscal prudence. This will drive developmental objectives, industrialisation, job creation and skills development.

3.2 **Mission**

The DPE's mission has been amended in line with the new five-year Strategic mandate, which is to provide clear strategic direction and oversight to the Department's SOCs, seeking to ensure that:

- They are financially sustainable, adequately funded and operationally robust;
- Their operating models keep pace with global development and innovation;
- They provide reliable, high-quality and cost-effective services and infrastructure to industry and our citizens;
- They secure investment and funding for strategic industrial development; and
- They align with national developmental objectives.

3.3 **Mandate**

The DPE undertakes shareholder oversight for Government and is currently instructed by the Executive authority to oversee core strategic State Owned Companies. The DPE is the primary interface between Government and the SOCs concerned and provides inputs into the formulation of the policy, legislation and regulation. Currently the DPE does not have a legislated Constitutional mandate. The DPE is recognised as a Government Department through Proclamation No. 82 of 1999.

3.4 **Strategic Overview of the DPE**

The Office of the Minister ("the Ministry") and DPE have shareholder oversight responsibilities over six (6) SOC. This includes developing and helping to implement strategies that optimise the positive impact of SOC's on the economy in general and in accelerating economic growth in particular, this will be accomplished through, amongst other, reducing the cost of generalised inputs, improving the quality of SOC services and ensuring the provision of sufficient services to meet the demands of a growing economy.

SOC have the specific role of achieving strategic public objectives in those areas of the economy where purely private sector participation would compromise these objectives, given private companies' focus on achieving market-related returns on capital. Given the unique character and role of SOC, the State has broader objectives than as envisaged for traditional notions of shareholder oversight.

The role of the DPE involves managing SOC at three levels, namely:

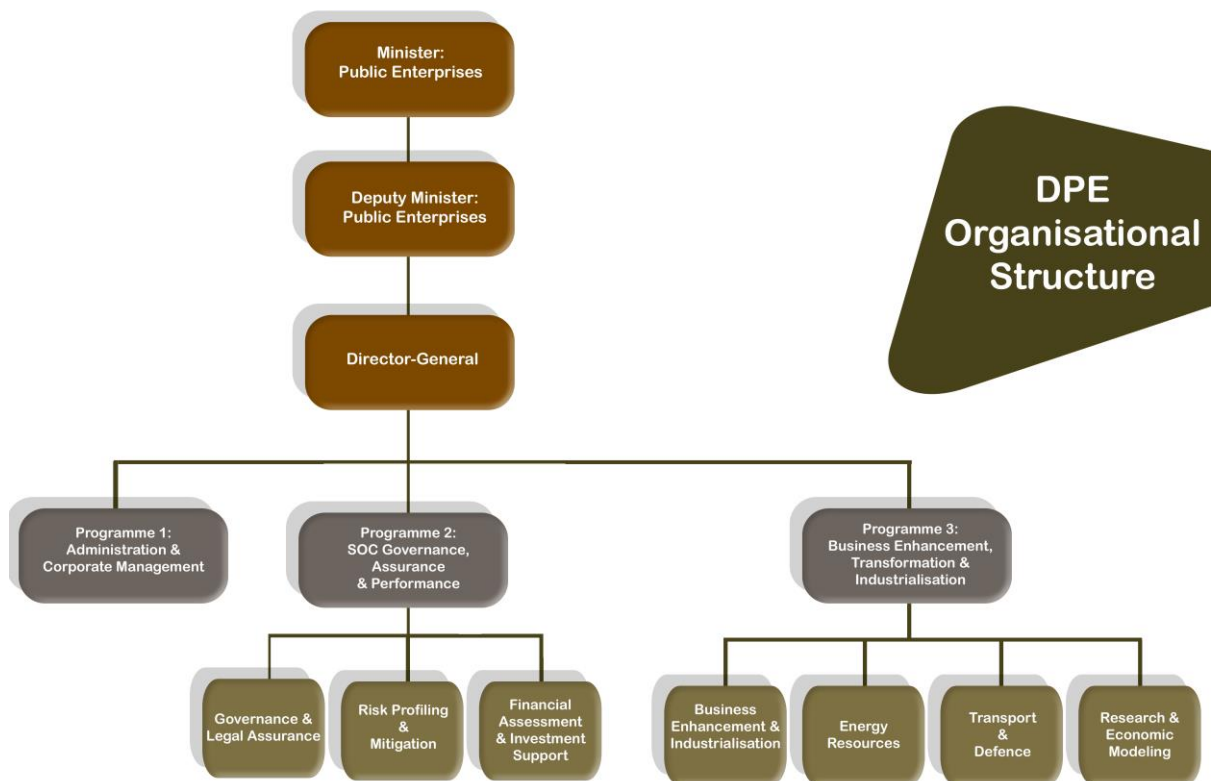
- ❑ **At company level** - This involves ensuring the company is financially viable and sustainable, is rigorously managed to deliver on market requirements and conforms to good corporate governance requirements.
- ❑ **At industry level** - This involves optimising service delivery from the industry as a whole through defining a strategic role for SOC, as well as identifying and facilitating the contribution of other key role players, such as the SOC customers and suppliers.

- At broader sectoral and regional development level** - This involves using SOC service provision, investment or procurement leverage as catalysts for the development of a specific sector or region. Developing the DPE's mission to incorporate this level represents a shift in emphasis for the Department.

The DPE's functions, existing within each Unit, are detailed in and can be viewed at www.dpe.gov.za.

4 **ORGANISATIONAL STRUCTURE OF THE DPE**

Below is the Organisational Structure of DPE.



5 **DPE CONTACT DETAILS**

5.1 The contact details of the information officer are as follows:

Information Officer: **Ms Jacky Molisane**
Physical Address: **80 HAMILTON STREET, ARCADIA, PRETORIA**
Postal Address: **Private Bag X15, Hatfield, 0028**
Telephone Number: **(012) 431 1126/1087**
Fax Number: **(012) 342 8431**
E-mail Address: **DGOffice@dpe.gov.za**
Website Address: www.dpe.gov.za

5.2 The contact details of the Deputy Information Officers are as follows:

Deputy Information Officer: **Advocate Melanchton Makobe**
Physical Address: **80 Hamilton Street, Arcadia, Pretoria**
Postal Address: **Private Bag X15, Hatfield, 0028**
Telephone Number: **(012) 431 1094**
Fax Number: **(012) 342 8431**
E-mail Address: **Melanchton.Makobe@dpe.gov.za**
Website Address: www.dpe.gov.za

PORTFOLIO OF SOC

This Manual only provides for DPE records and not those of the SOC reporting to it. Any requests for access to information from the SOC must be directed to the information officers of the relevant SOC.

The SOC, are the following:

5.3 Alexkor SOC Limited

Alexkor SOC Limited is the diamond mining company which is wholly owned by the government. The company has two divisions or business units, which are the Pooling and Sharing Joint Venture (PSJV) which is the joint venture between Alexkor and the Richtersveldt community through the RMC (Alexkor RMC JV) and the Alexkor corporate unit. The mining division is the core business of the company, exploiting a large land-based diamond resource and extensive diamondiferous marine deposits.

Contact Details

Chief Executive Officer: **Mr Trevor Fowler**
 Chief Information Officer: **Mr Trevor Fowler**
 Physical Address: **Building 15, 2nd Floor, 20 Woodlands Drive,
 The Woodlands Office Park, Woodmead**
 Postal Address: **Building 15, 2nd Floor, 20 Woodlands Drive, The
 Woodlands Office Park, Woodmead**
 Telephone Number: **(011) 253 9567**
 Fax Number: **(011) 253 9567**
 E-mail Address: **lemogang@alexkor.co.za**
 Website Address: **www.alexkor.co.za**

Chief Financial Officer: **N/A**

5.4 Denel SOC Limited

Denel SOC Ltd is the largest manufacturer of defence equipment in South Africa and operates in the military aerospace and landward defence environment. Denel is an important defence contractor in its domestic market and a key supplier to the South African National Defence Force (SANDF), both as original equipment manufacturer (OEM) and for the overhaul, maintenance, repair, refurbishment and upgrade of equipment in the SANDF's arsenal. Over the years Denel has built a reputation as a reliable supplier to its many international clients. It supplies systems and consumables to end users as well as sub-systems and components to its industrial client base. Denel also has a number of equity partnerships, joint ventures and cooperation agreements with renowned international players in the defence industry.

It is a major player in South Africa's peace-keeping and defence-related industries.

Contact Details

Chief Executive Officer: **Mr Michael Kgobe (Interim GCEO)**
 Chief Information Officer: **Ms Pam Malinda**

Physical Address: **Nelmapius Drive, Irene, Pretoria**
 Postal Address: **PO Box 8322, Centurion, 0046**
 Telephone Number: **(012) 671 2970**
 Fax Number: **(012) 671 2751**
 E-mail Address: **pamm@denel.co.za**
 Website Address: **www.denel.co.za**

5.5 **Eskom Holdings SOC Limited**

Eskom is South Africa's major electricity utility and is responsible for 95% of electricity supply, involving generation, transmission and distribution and retail. Through its subsidiary Eskom Enterprises (Pty) Limited, Eskom also undertakes other non-regulated activities related to the energy and electricity supply industry, including the provision of electricity supply and related services to African countries connected to the South African grid and the rest of Africa.

Contact Details

| | |
|--------------------------|---|
| Chief Executive Officer: | Mr Calib Cassim (Interim GCEO) |
| Information Officer: | Ms Faith Burn and Ms Moleka Tshabalala |
| | Physical Address: Megawatt Park, Maxwell Drive, Sunninghill, Sandton |
| Postal Address: | PO Box 1091, Johannesburg, 2000 |
| Telephone Number: | 011 800 3128 |
| Fax Number: | (011) 800 4299 |
| E-mail Address: | PAIA@eskom.co.za / POPIA@eskom.co.za |
| Website Address: | www.eskom.co.za |

5.6 **South African Express Airways SOC Limited**

South African Express Airways ("South African Express") was a domestic and regional, passenger and cargo carrier established on 24 April 1994. South African Express was a regional carrier servicing lower density route domestically and regionally. As a regional airline with route networks covering major local and regional cities, South African Express played a significant role in the country's hospitality, travel and tourism industry and is vital contributor to the country's socio-economic development. However, due to bad management, state capture and corruption, the regional airline was liquidated in September 2022.

Website Address: **(Website suspended)**

Liquidator's details:

Aviwe Ntandazo Ndyamara

Address: 1207 Cobham Road

QUEESWOOD

PRETORIA

0186

Tel: +27 12 333 6162/0861 874 926

Cell :082 511 6542

Email: aviwe@tshwanetrust.co.za

5.7 **South African Forestry Company SOC Limited**

South African Forestry Company Limited (“SAFCOL”) is the Government's forestry company.

Contact Details

Chief Executive Officer: Mr. Tshepo Monaheng
Information Officer: Ms Masebolelo Gaeganelwe

Physical Address: 209 Aramist Ave, Menlyn, Pretoria, 0081
Postal Address: **PO Box 1771, Silverton, 0127**
Telephone Number: **(012) 436 6300**
E-mail Address: Masebolelo.Gaeganelwe@safcol.co.za
Website Address: www.safcol.co.za

5.8 **Transnet SOC Limited**

Transnet is a public company wholly owned by Government and it is also the custodian of port and rail infrastructure in South Africa. This is the area of their core expertise and Transnet's primary business going forward. Its strategy is to provide integrated seamless transport and logistics solution for customers.

Transnet is devoted to transparency, integrity and efficiency. The new Transnet is made up of the following operating divisions:

- ❑ Transnet Freight Rail (formerly Spoornet – the freight rail division);
- ❑ Transnet Rail Engineering (formerly Transwerk - the rolling stock maintenance business);
- ❑ Transnet National Ports Authority (formerly the National Ports Authority - fulfils the landlord function for South Africa's port system);
- ❑ Transnet Port Terminals (formerly South African Ports Operation - managing port and cargo terminal operations in the nation's leading ports); and
- ❑ Transnet Pipelines (formerly Petronet - the fuel and gas pipeline business, pumps and manages the storage of petroleum and gas products through its network of high-pressure, long-distance pipelines)

Contact Details

Chief Executive Officer: **Ms Portia Derby**
Information Officer: Ms Portia Derby
Physical Address: 138 Eloff Street, Johannesburg
Postal Address: **PO Box 72501, Parkview, 2122**
Telephone Number: **(011) 308 1274**
Fax Number: **(011) 308 2315**
E-mail Address:
Website Address: www.transnet.co.za

5.9 South African Airways Limited

South African Airways is an air carrier with the mandate to provide reliable and extensive air transportation capacity linking the Republic with main business, trading and tourism markets within the African continent and internationally.

Contact Details

Chief Executive Officer: Prof John Lamola (Interim GCEO)
Information Officer: Ms Koekie Mbeki
Physical Address: **Airways Park, 32 Jones Road, Kempton Park, Johannesburg**
Postal Address: **Private Bag X13, Kempton Park, 1627**
Telephone Number: **(011) 978 1000**
Fax Number: **(011) 978 2999**
E-mail Address: N/A
Website Address: www.flysaa.com

6 SECTION 10 GUIDE ON HOW TO USE THE ACT

The South African Human Rights Commission was required by section 10 of the PAIA, to compile a guide in each official language, containing such information, in an easily comprehensible form and manner, as may be required by a person who wishes to exercise any right contemplated in the PAIA.

This guide has been compiled and is available for inspection. Any enquiries concerning this guide must be directed to the following:

Attention: **PAIA Unit**
Physical Address: **29 Princess of Wales Terrace, Cnr York and St Andrews Street, Parktown, Johannesburg**

Postal Address: **Private Bag 2700, Houghton, Johannesburg 2041**
Telephone Number: **(011) 484 8300**
Fax Number: **(011) 643 6472**
E-mail Address: **paia@sahrc.org.za**
Website Address: **www.sahrc.org.za**

7 **ACCESS TO RECORDS HELD BY THE DPE**

7.1 **Categories of Records held by the DPE.**

Ministry

Cabinet Memoranda (Top Secret)
Newspaper Clippings
Internal & External Correspondence
Media statements
Meeting Packs -Agenda, Minutes, and Resolutions (Secret/ Confidential)
Internal Memoranda- (Secret)
Personnel/staff case files (Confidential/Restricted)
Internal Policies
Publications
Regulations (Acts and Bills)
Reports (classified Secret/Confidential/Restricted)
Speeches by the Minister

Director-General's Office

Correspondence/ Miscellaneous (classified Secret/Confidential/Restricted)

Economic Impact and Policy Alignment

Briefing and Information Reports
Presentations
Correspondence (including electronic)
Reports (Secret/Confidential/Restricted)
Reviews

Legal and Governance

Correspondence (including electronic)
Agreements (Confidential)
Case Files (Restricted)
Contracts (Confidential)
Memoranda of understanding (Confidential)
Memoranda of agreement (Confidential)
PFMA applications (Restricted)

Regulations (Acts and Bills)
Reports (Secret/Confidential/Restricted
Reviews
Service level agreements (Confidential)
State guarantees
Shareholder Compacts (Restricted)
Legal Opinions
Summons
Affidavits
Regulations (Acts and Bills)

□ **Transport Enterprises**

Corporate plans (Restricted)
SOC Financial statements
Reports (Secret/Confidential/Restricted)
SOE performance reports
Employee Files
IR matters

□ **Defence, Mining and Forestry**

Corporate plans (Restricted)
SOE Financial Reports
Regulations (Acts and Bills)
Monthly Performance Reports (SOE)
Reviews

□ **Corporate Management**

Meeting packs -Agenda, Minutes, and Resolutions. (Confidential/Restricted)
Leases (Confidential)
Policy
Regulations (Acts and Bills)
Reports (Secret/Confidential/Restricted)
Reviews

□ **Finance (Supply Chain Management, Budget, Information Technology, Internal audit)**

Audit reviews
Financial Circulars
Financial Estimates
Financial Frameworks
Financial Statements
Invoices
Orders
Policy
Practice notes

Procedures
Regulations (Acts and Bills)
Reports (Secret/Confidential/Restricted)
Reviews
Tender documents
Notices

□ **Human Resources**

Adverts
Circulars
Training manuals
Personnel/staff Case Files (Confidential/Restricted)
Policy
Procedures
Regulations (Acts and Bills)
Reports (Secret/Confidential/Restricted)
Reviews

□ **Communications (Including International Relations)**

Annual Reports
Newspaper Clippings
Publications
Media briefings
Newsletters
Policy
Press releases
Regulations (Acts and Bills)
Reports (Secret/Confidential/Restricted)
Reviews
Speeches / Messages
Strategic plans

7.2 Latest Notice in terms of section 15

There is no notice, which has been published on the categories of records of the DPE, which are available without a person having to request access in terms of the PAIA. The categories of records that are automatically available are mentioned below, in paragraph 8.3.

7.3 Categories of Records automatically available

7.3.1 Acts of Parliament

7.3.2 Annual Reports of the Department and SOC

7.3.3 Tender/Bidding documents

7.3.4 Strategic Plans

7.3.5 Annual Performance Plans

7.3.6 Financial Statements

7.3.7 Business Plans

7.3.8 Youth Booklets

7.3.9 SOC Publications

The records of DPE which are automatically available, are those stated above and on the DPE's website.

7.4 Categories of Records Available for Inspection in terms of legislation other than the PAIA

There are no records available for inspection in terms of legislation, other than the PAIA.

8 SERVICES OF THE DPE AND ARRANGEMENTS FOR PARTICIPATION IN THE DPE POLICY FORMULATION, RIGHTS AND DUTIES

8.1 Description of the DPE Services available to members of the public

The DPE does not provide any services directly to the public. However, the DPE does provide members of the public to participate in its processes such inviting members of the public through Government Gazettes to comment on draft legislation the DPE intends taking to Parliament. The DPE also advertises some of its tenders in news media and Government Gazette.

8.2 Participation in Policy Formulation, Rights and Duties

The public can participate in policy formulation/legislative process of the DPE and its SOC's, in the below detailed process.

□ **Step One**

- The DPE or the SOC identifies the need and makes a proposal to address it by legislation to the DPE.
- After obtaining buy-in from the DPE. The DPE initiates the process of drafting the legislation.
- The DPE takes the draft legislation to the Minister for his/her approval.
- Legal and Governance ("L &G) inform the Parliamentary Services Unit ("PSU") with regard to timing.

□ **Step Two**

- The DPE subjects the draft Bill to SEIAS by DPME.
- The Minister takes the Bill to Cabinet for approval.
- Cabinet services, thereafter informs L &G and PSU on bill approval.
- L &G and PSU agree on a schedule for purposes of moving forward, PSU then informs the speaker and chairperson of National Council of Provinces (“NCOP”) of intention to publish a bill and advises on timing.

□ **Step Three**

- Once Cabinet approval is obtained, L&G publishes the Bill in the Government Gazette for public comments for 30 days. Comments incorporated if valid.
- The L&G sends the draft Bill to Chief State Law Advisor(“CSLA”) for certification.

□ **Step Four**

After certification, CSLA takes the Bill to the Legislation and Proceedings Unit of Parliament (“L&P”).

□ **Step Five**

The Minister introduces the bill into Parliament, the first reading being before the National Assembly.

□ **Step Six**

The L & P prints the Bill and takes it to the Portfolio Committee (“PC”).

□ **Step Seven**

- The PC can choose to call for public hearings before debating the bill.
- The PC then debates the bill.
- During the debate, PC can elect to make amendments to the bill to be effected by L&G in B-Format and translated by Communications.
- The L&G Deputy Director General, the Director General and the Minister approve the amendments.

□ **Step Eight**

- Once amendments are effected and approved by the PC, the PC then votes on the bill.
- The L&G forwards final amendments to Communications for translation.
- **Step Nine**
 - The L&G then forwards to final amendment and translation to CSLA who forward to Committee Section for printing.
 - The CLSA and L&G proof-read the printer's proof.
 - The CLSA thereafter signs off the final printing by Committee Section.
- **Step Ten**

The Minister reads the bill for the second time in Parliament, in the National Assembly.
- **Step Eleven**
 - The L&G brief the Select Committee on the bill.
 - The Select Committee votes on bill.
- **Step Twelve**
 - In the event of the Select Committee proposing amendments to the bill, then the bill is referred back to the National Assembly to accept or reject the amendments.
 - If amendments accepted, L&G then incorporates them.
- **Step Thirteen**

The Minister introduces the bill for deliberation and voting by the NCOP.
- **Step Fourteen**
 - L&P prints the final version of the bill and the translations.
 - L&P sends the final for signing by the Presidency via the office of the Leader of Government business.
- **Step Fifteen**

If the bill approved by both houses, Parliament refers it to the President to sign it into law, the bill then becomes an Act of Parliament.

9 **REQUEST PROCESS AND FEES PAYABLE**

This process must be followed by requesters seeking access to records held by the DPE. These stages have been stated to provide guidance to requesters requesting access to records held by the DPE.

9.1 **Request Process**

Stage 1 – Completion of the Application Form (Form A)

The requester is to complete Form A of Annexure A and submit by delivery, by post or by e-mail to the DPE on the following information:

| | |
|----------------------|--|
| Information Officer: | Ms Jacky Molisane |
| Physical Address: | 80 Hamilton Street, Arcadia, Pretoria |
| Postal Address: | Private Bag X15, Hatfield, 0028 |
| Telephone Number: | (012) 431 1090 |
| Fax Number: | (012) 342 8431 |
| E-mail Address: | DGOffice@dpe.gov.za |
| Website Address: | www.dpe.gov.za |

Requesters must note that sufficient detail must be provided to enable the Information Officer to identify the record requested. Further, the requester must provide sufficient personal particulars for the Information Officer to reach them.

The requester must state whether the record is preferred in a particular language or manner. Requesters should note that, if the record exists in the language that the requester prefers, the DPE will grant access in that language, however, if the record does not exist in the language so preferred or the requester has no preference or has not indicated a preference, the record will be given in the language it exists in.

In the event of the request being on behalf of another person, the requester must submit proof of the capacity in which the request is made, to the reasonable satisfaction of the Information Officer.

The requester must state that the information is required in order to exercise or protect a right, and clearly what the nature of the right is to be exercised or protected. Further, the requester must clearly specify why the record is necessary to exercise or protect such right.

The request fee payable by every requester, other than a personal requester referred to in section 22(1) of the PAIA, is R 35, 00. This amount is payable to the DPE by cash or cheque in the event of it being delivered or deposited into the DPE bank account (with the name of the requester as reference), with the deposit slip accompanying this Form A. The DPE's banking details are as follows:

Name of Bank: ABSA
Account Holder: Department of Public Enterprises
Account no: 405 392 1194

Branch Code: 632005

□ **Stage 2 – Acknowledgement of Receipt of Application**

The Information Officer of the DPE will acknowledge receipt of the Application from the requester and give the requester a reference number. Thereafter the Information Officer will accept or reject the request for access to the record. Should there be information that is missing from the Application; the Information Officer will request the additional information.

□ **Stage 3 – Processing of the Request**

The DPE will process the request, procure the information and calculate the cost involved in granting the access to records. The requester whose request has been granted must pay the access fee for the reproduction and preparation of the copies or transcripts of the records and for the time reasonably required in excess of the prescribed hours to search and prepare the record for disclosure.

□ **Stage 4 – Notification of Outcome**

The requester will be informed of the outcome of the Application within thirty (30) days after receipt of the request, or the DPE may extend that period by a further period not exceeding thirty (30) days. This period, within which the Information Officer will inform the requester of the outcome, is subject to such an extension as may be required to give a third party the chance to make a representation to the Information Officer, where the record requested refers to the record of the third party.

The requester will be informed and required to pay the outstanding fees payable to the DPE.

□ **Stage 5 – Finalisation of the Request**

The Information Officer will give the information to the requester upon payment of the outstanding fees, as required by Stage 4. This amount is payable to the DPE by cash and by cheque. In the event of it being deposited into the DPE's bank account, proof of payment should be forwarded to the DPE, with the reference number. The DPE's banking details are as follows:

Name of Bank: ABSA

Account Holder: Department of Public Enterprises

Account no: 405 392 1194

Branch Code: 632005

9.2 Fees Payable

Requesters should note that the PAIA provides for two types of fees, namely:

- ❑ A request fee, which is the standard fee payable by requesters, but not personal requesters; and
- ❑ An access fee, which is calculated by taking into account reproduction cost, search and preparation time, as well as postal costs.

A requester seeking access to a record containing information about the requester is not required to pay a request fee. Other requesters are required to pay a request fee.

The payable fees and charges, as prescribed in Part II of Notice 187 in the Government Gazette of 15 February 2002, which is annexed hereto as Annexure B.

Requesters are required to pay the prescribed request fee before further processing of the request.

Should the search for and preparation of the record for disclosure, including arrangement to make it available in the request form (Form A of Annexure A), require more than the hours prescribed in the regulation for this purpose, the Information Officer will notify the requester to pay as a deposit, the prescribed portion of the access fee, which would be payable if the request is granted.

The record will only be granted by the Information Officer once all the fees prescribed in Annexure B are paid.

A requester whose request has been granted must pay an access fee for reproduction, search and preparation costs and for any time reasonably required in excess of the prescribed hours to search for and prepare the record for disclosure, including making arrangements to make it available in the request form (Form A of Annexure A).

10 **GRANTING OR REFUSAL OF REQUESTS**

10.1 **Granting of Access to Records**

As stated above, the requester will be informed of the outcome of the Application, within thirty (30) days after receipt of the request; or the DPE may extend that period by a further period not exceeding thirty (30) days. This period within which the Information Officer will inform the requester of the outcome, is subject to such extension as may be required to give a third party the chance to make a representation to the Information Officer, where the record requested refers to the record of the third party.

10.2 **Refusal of Access to Records**

Should the request for access to a record be refused by the DPE, the notification will state the following:

- ❑ The reasons for the refusal, including the provisions of the PAIA relied upon; and
- ❑ Advise that the requester may lodge an internal appeal or an application with the relevant authority. The relevant authority in this instance is the Minister of Public Enterprises.

Requesters' attention is drawn to the provisions of PAIA, in terms of which requests for access to a record **must** be refused:

- ❑ where the disclosure of the information would involve the unreasonable disclosure of personal information about a third party, including a deceased individual;
- ❑ where the record contains:
 - trade secrets of a third party;
 - financial, commercial, scientific or technical information, other than trade secrets, of a third party, the disclosure of which would be likely to cause harm to the commercial or financial interests of that third party; or
 - information supplied in confidence by a third party; the disclosure of which could reasonably be expected to either put that third party at a disadvantage in contractual or other negotiations; or to prejudice that third party in commercial competition.
- ❑ where the disclosure of the record would constitute an action for breach of a duty of confidence owed to a third party in terms of an agreement;
- ❑ where its disclosure could reasonably be expected to endanger the life or physical safety of an individual;
- ❑ where access to that record is prohibited in terms of section 60(14) of the Criminal Procedure Act 51 of 1977;
- ❑ where the record is privileged from production in legal proceedings unless the person entitled to the privilege has waived the privilege; and
- ❑ where the record contains information about research being or to be carried out by or on behalf of a third party, the disclosure of which would be likely to expose a third party; a person that is or will be carrying out the research on behalf of the third party; or the subject matter of the research to serious disadvantage.

Requesters' attention is drawn to the provisions of the PAIA, in terms of which requests for access to records **may** be refused, if the record requested relates to the following:

- ❑ where the record consists of information that was supplied in confidence by a third party the disclosure of which could reasonably be expected to prejudice the future supply of similar information, or information from the same source; and if it is in the public interest that similar information, or information from the same source, should continue to be supplied;
- ❑ where its disclosure would be likely to prejudice or impair the security of:
 - a building, structure or system, including, but not limited to, a computer or communication system;
 - a means of transport; or

- any other property.
- where its disclosure would be likely to prejudice or impair methods, systems, plans or procedures for the protection of:
 - an individual in accordance with a witness protection scheme;
 - the safety of the public, or any part of the public; or
 - the security of property of a building, structure or system, including, but not limited to, a computer or communication system, a means of transport, or any other property.
- Where the record contains methods, techniques, procedures or guidelines for:
 - the prevention, detection, curtailment or investigation of a contravention or possible contravention of the law; or
 - the prosecution of alleged offenders and the disclosure of those methods, techniques, procedures or guidelines could reasonably be expected to prejudice the effectiveness of those methods, techniques, procedures or guidelines or lead to the circumvention of the law or facilitate the commission of an offence.
- Where the prosecution of an alleged offender is being prepared or about to commence or pending and the disclosure of the record could reasonably be expected to impede that prosecution, or to result in a miscarriage of justice in that prosecution.
- Where the disclosure of the record could reasonably be expected:
 - to prejudice the investigation of a contravention or possible contravention of the law which is about to commence or is in progress or, if it has been suspended or terminated, is likely to be resumed;
 - to reveal, or enable a person to ascertain, the identity of a confidential source of information in relation to the enforcement or administration of the law;
 - to result in the intimidation or coercion of a witness, or a person who might be or has been called as a witness, in criminal proceedings or other proceedings to enforce the law;
 - to facilitate the commission of a contravention of the law;
 - to prejudice or impair the fairness of a trial or the impartiality of an adjudication.
- Where the disclosure of the record could reasonably be expected to cause prejudice to the defence of the Republic or the security of the Republic.

- Where the disclosure would reveal information:
 - supplied in confidence by or on behalf of another state or an international organisation;
 - supplied by or on behalf of the Republic to another state or an international organisation in terms of an arrangement or international agreement with that state or organisation which requires the information to be held in confidence; or
 - required to be held in confidence by an international agreement or customary international law.

- Where its disclosure would be likely to materially jeopardise the economic interests or financial welfare of the Republic or the ability of the government to manage the economy of the Republic effectively in the best interests of the Republic.

- Where the record contains trade secrets of the State or a public body, or contains financial, commercial, scientific or technical information, other than trade secrets, the disclosure of which would be likely to cause harm to the commercial or financial interests of the State or a public body, or contains information, the disclosure of which could reasonably be expected:
 - to put a public body at a disadvantage in contractual or other negotiations; or
 - prejudice a public body in commercial competition; or
 - is a computer program owned by the State or a public body, except insofar as it is required to give access to a record to which access is granted in terms of the PAIA.

- Where the record contains information about research being or to be carried out by or on behalf of a public body, the disclosure of which would be likely to expose:
 - the public body;
 - a person that is or will be carrying out the research on behalf of the public body; or
 - the subject matter of the research, to serious disadvantage.

- Where the record contains:
 - an opinion, advice, report or recommendation obtained or prepared; or
 - an account of a consultation, discussion or deliberation that has occurred, including, but not limited to, minutes of a meeting, for the purpose of assisting to formulate a policy or take a decision in the exercise of a power or performance of a duty conferred or imposed by law.

- Where the disclosure of the record could reasonably be expected to frustrate the deliberative process in a public body or between public bodies by inhibiting the candid communication of an opinion, advice, report or recommendation or conduct of a consultation, discussion or deliberation.
- Where the disclosure of the record could, by premature disclosure of a policy or contemplated policy, reasonably be expected to frustrate the success of that policy.
- Where the disclosure of the record could reasonably be expected to jeopardise the effectiveness of a testing, examining or auditing procedure or method used by a public body.
- Where the record contains evaluative material, whether or not the person who supplied it is identified in the record, and the disclosure of the material would breach an express or implied promise which was made to the person who supplied the material, and to the effect that the material or the identity of the person who supplied it, or both, would be held in confidence.
- Where the record contains a preliminary, working or other draft of an official of a public body.
- Where the request is manifestly frivolous or vexatious, or the work involved in processing the request would substantially and unreasonably divert the resources of the public body.

11 **APPEAL PROCEDURE**

11.1 **Decisions of the Information Officer:**

A requester may lodge an internal appeal against the following decisions of the Information Officer of the DPE:

- the refusal of a request;
- regarding the request and access fees;
- the extension of the period to deal with the request; and
- the manner access of being in a different from that which was requested.

11.2 **Manner of Internal Appeal and Prescribed Fees**

If a requester wishes to lodge an internal appeal, the requester must do so by completing Form B of Annexure A.

The manner of internal appeal is as follows:

- The internal appeal must be lodged within 60 days;

- ❑ If notice to a third party is required, the appeal must be lodged within 30 days after notice is given to the appellant of the decision appealed against;
- ❑ The notice of internal appeal must be delivered to the Information Officer of the DPE at the following address:

| | |
|----------------------|--|
| Information Officer: | Ms Jacky Molisane |
| ▪ Physical Address: | 80 Hamilton street, Arcadia, Pretoria |
| ▪ Postal Address: | Private Bag X15, Hatfield, 0028 |
| ▪ Telephone Number: | (012) 431 1090 |
| ▪ Fax Number: | (012) 342 8431 |
| ▪ Website Address: | www.dpe.gov.za |

- ❑ The notice of internal appeal must identify the subject of the internal appeal and state the reasons for the internal appeal and may include any other relevant information known to the appellant;
- ❑ If the appellant wishes to be informed of the decision on the internal appeal in any other manner, they must state that manner and provide the necessary personal particulars to be so informed;
- ❑ The notice of internal appeal must be accompanied by the prescribed fee; and
- ❑ The notice of internal appeal must specify the appellant's postal address or fax number.

If the appeal is lodged after the expiry of the period referred to, the relevant authority must, upon good cause shown, allow the late lodging of the appeal.

If that relevant authority disallows the late lodging of the appeal, the relevant authority must give notice of that decision to the person who lodged the appeal.

A requester lodging an appeal, on the grounds stated by paragraph 12.1 of this manual, must pay the prescribed appeal fee, if any.

If the prescribed appeal fee is payable in respect of an internal appeal, the decision on the internal appeal may be deferred until the fee is paid.

As soon as reasonably possible, but within ten (10) working days after receipt of an internal appeal, the Information Officer of DPE must submit to the relevant authority:

- ❑ the internal appeal together with reasons for the decision concerned; and
- ❑ if the internal appeal is against the refusal or granting of a request for access, the name, postal address, phone and facsimile number and electronic mail address, whichever is available, of any third party that must be notified.

11.3 Hearing, Decision, Notification of Decision

The relevant authority may, at his/her discretion require additional information from requesters or require requesters to make oral presentations, in order to arrive at his/her decision.

Upon reaching a decision by the relevant authority, the requester will be notified of the outcome of the internal appeal.

Form 02 [Request for Access to Record](#) [Regulation 7] – **Public & Private Bodies**

Form 03: [Outcome of request and of fees payable](#) [Regulation 8]-**Public & Private Bodies**

Form 04: [Internal Appeal Form](#) [Regulation 9]-**Public Bodies only**

ANNEXURE B – PRESCRIBED FEES

Part II on Notice 187 in the Government Gazette of 15 February 2002

FEES IN RESPECT OF PUBLIC BODIES

| Number | Description | Fee in Rands |
|---------------|---|---------------------|
| 1. | The fee for a copy of the manual as contemplated in regulation 5(c) is R0, 60 every photocopy of an A4-size page or part thereof. | 0, 60 |
| 2. | The fees for reproduction referred to in regulation 7(1) are as follows: | |
| 2(a) | For every photocopy of an A4-size page or part thereof | 0, 60 |
| 2(b) | For every printed copy of an A4-size page or part thereof held on a computer or in electronic or machine-readable form | 0, 40 |
| 2(c) | For a copy in a computer-readable form on | |
| (2)(c)(i) | Stiffy disc | 5, 00 |
| 2(c) (ii) | Compact disc | 40, 00 |
| 2(d) | For a transcription of visual images | |
| 2(d) (i) | For an A4-size page or part thereof | 22, 00 |
| 2(d) (ii) | For a copy of visual images | 60, 00 |
| 2(e) | For a transcription of an audio record | |
| 2(e) (i) | For an A4-size page or part thereof | 12, 00 |
| 2(e) (ii) | For a copy of an audio record | 17, 00 |
| 3. | The request fee payable by every requester, other than a personal requester, referred to in regulation 7(2) is | 35, 00 |
| 4. | The access fees payable by a requester referred to in regulation 7(3) are as follows: | |
| 4(1) (a) | For every photocopy of an A4-size page or part thereof | 0, 60 |
| 4(1) (b) | For every printed copy of an A4-size page or part thereof held on a | 0, 40 |

| | | |
|---------------|--|---------|
| | computer or in electronic or machine readable form | |
| 4(1) (c) | For a copy in a computer-readable form on | |
| 4(1) (c) (i) | Stiffy disc | 5, 00 |
| 4(1) (c) (ii) | Compact disc | 40, 00 |
| 4(1) (d) | For a transcription of visual images | |
| 4(1) (d) (i) | For an A4-size page or part thereof | 22, 00 |
| 4(1) (d) (ii) | For a copy of visual images | 60, 00 |
| 4(1) (e) | For a transcription of an audio record | |
| 4(1) (e) (i) | For an A4-size page or part thereof | 12, 00 |
| 4(1) (e) (ii) | For a copy of an audio record | 17, 00 |
| 4(1) (f) | To search for and prepare the record for disclosure R15,00 for each hour or part thereof, excluding the first hour, reasonably required for such search and preparation. | R15, 00 |
| 4(2) | For purposes of section 22(2) of the Act, the following applies: | |
| 4(2) (a) | Six hours as the hours to be exceeded before a deposit is payable. | |
| 4(2) (b) | One third of the access fee is payable as a deposit by the requester. | |
| 5. | The actual postage is payable when a copy of a record must be posted to a requester | |